

DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

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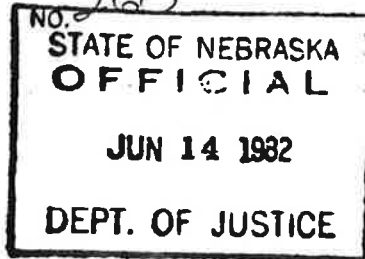
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June 9, 1982



SUBJECT: Public bidding and contracts.

REQUESTED BY: Brian C. Silverman, Scotts Bluff County Attorney, Gering, Nebraska, 69341.

OPINION BY: Paul L. Douglas, Attorney General; Warren D. Lichty, Jr., Assistant Attorney General.

QUESTION: Does Neb.Rev.Stat. §39-1406 (Reissue 1978) allow a county at the beginning of a twelve month period, to advertise a single time setting dates in each of the succeeding twelve months to receive and accept bids, or is a separate advertisement needed for each bid letting?

CONCLUSION: A separate advertisement for each receiving and accepting of bids is probably required.

You indicate that the county does not wish to let a contract for the supply of gasoline for a period of one year, but would prefer to advertise once, at the beginning of a twelve month period, for bids to be received in each of the succeeding twelve months in response to that single advertisement. Neb.Rev.Stat. §39-1406 (Reissue 1978) provides in part: "...such boards shall advertise for bids and award such contract at a public letting. . . ." (Emphasis added).

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Despite the fact that Blacks Law Dictionary defines "bid letting" as being separate and apart from the advertisement or invitation to bid, we rather feel that it is included because of the language of §39-1406 which states: ". . . advertise. . . and award. . . at a public letting. . . ." Some small support to this position is given in the text in 64 Am.Jur.2d 917, Public Works and Contracts, §63, wherein it is stated:

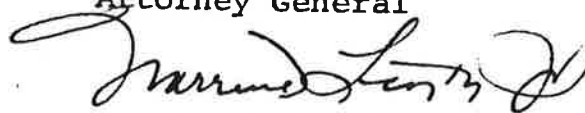
The contract consists of the advertisement for bids, the proposal of the bidder, and the acceptance of the proposal by the public authorities. The bidder's proposal, by necessary implication, incorporates all the terms and conditions which are contained in the invitation to bid.

This, we think, argues for a conjunctive, rather than a disjunctive interpretation of the words in §39-1406, ". . . shall advertise for bids and award such contract at a public letting."

We therefore conclude that Neb.Rev.Stat. §39-1406 (Reissue 1978) should be construed as requiring an advertisement or invitation to bid in advance of each letting or receiving of bids.

Very truly yours,

PAUL L. DOUGLAS
Attorney General



Warren D. Lichty, Jr.
Assistant Attorney General

WDL/ta

Approved:



Paul L. Douglas
Attorney General